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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

10 AMY PATTERSON,  
11 Plaintiff

12 | VS

13 TWO FINGERS, LLC, an Arizona  
14 corporation *dba* Stone and Vine Urban  
15 Italian Restaurant; FOUR FINGERS, LLC,  
16 an Arizona corporation *dba* Salt & Lime  
17 Modern Mexican Grill; SIX FINGERS,  
LLC, an Arizona corporation *dba* Black &  
Bleu Restaurant; JOSEPH M. POPO and  
GABRIELLA POPO.

### Defendants.

Case No:

## COMPLAINT

#### JURY TRIAL DEMANDED

Plaintiff alleges:

## INTRODUCTION

1. This is a lawsuit for compensatory, declaratory and injunctive relief against Defendants to redress the deprivation of rights secured to the Plaintiff by the Civil Rights Act of 1964, Title VII, 42 U.S.C. § 2000e et seq., as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C. § 2000e-16 and the Civil Rights Act of 1991, Pub. L. No. 102-166, arising from the hostile work environment caused to Plaintiff by Defendants.

1       2. This lawsuit is also brought to remedy the certain common law violations  
2 perpetrated by Defendants including battery, assault, defamation, and intentional  
3 infliction of emotional distress. Defendants employed Plaintiff at three different  
4 restaurants, and the managing member of each Defendant – Joe Popo – engaged in a  
5 systematic and continuous sexual harassment of Plaintiff including repeatedly grabbing  
6 her buttocks, showing her his penis in her office and asking her on multiple occasions to  
7 participate in sex acts with him. In addition to participating in sexual assault and sexual  
8 harassment against Plaintiff, Popo and Defendants engaged in a smear campaign to  
9 paint Plaintiff as a “whore” and a person who carries and spreads sexually transmitted  
10 diseases after she sought to protect her rights.

## JURISDICTION AND VENUE

12       3.     Jurisdiction in this Court is proper pursuant to 28 U.S.C. § 1331 and  
13 1343. The common law claims are part and parcel the jurisdiction over the Title VII  
14 cause of action.

15       4. The employment practices and other wrongful acts alleged to be unlawful  
16 were committed within the jurisdiction of this District, and venue is proper in this  
17 division pursuant to LRCiv 77.1(a).

18       5. Plaintiff has exhausted her federal and state administrative remedies as to  
19 the Title VII cause of action. Plaintiff received a Right to Sue letter against the Title VII  
20 defendants on March 6, 2015.

PARTIES

22       6. Plaintiff Amy Patterson is a single female residing in Scottsdale,  
23 Maricopa County, Arizona.

24       7.     Defendant Two Fingers, LLC is an Arizona corporation doing business as  
25 Stone and Vine Urban Italian Restaurant, which is an Italian restaurant in North  
26 Scottsdale. The two members for Two Fingers are Joseph M. Popo and Gabby Bell.

27        8.      Defendant Four Fingers, LLC is an Arizona corporation doing business as  
28 Salt & Lime Modern Mexican Grill, which is another restaurant in North Scottsdale but

1 that serves Mexican food. The two members for Four Fingers are Joseph M. Popo and  
 2 Jeffrey T. Gerlinger. Four Fingers did not become incorporated until September 24,  
 3 2013, and Salt & Lime began its operations shortly thereafter.

4       9.     Defendant Six Fingers, LLC is an Arizona Corporation doing business as  
 5 Black + Bleu, which is a third restaurant in North Scottsdale. One of the members for  
 6 Six Fingers is an LLC operated by Joseph M. Popo. Six Fingers did not become  
 7 incorporated until February 7, 2014, and Black + Bleu began its operations shortly  
 8 thereafter.

9       10.    All restaurants mentioned herein operate in the same plaza at 94<sup>th</sup> Street  
 10 and Shea Boulevard in North Scottsdale. These restaurant defendants are referenced  
 11 herein as the corporate Defendants.

12      11.    Defendant Joseph M. Popo (“Popo”) is a member for all three Defendant  
 13 corporations listed herein. For purposes of Plaintiff’s Title VII claims, the corporate  
 14 Defendants are vicariously liable for Popo’s acts listed below. For purposes of  
 15 Plaintiff’s common law claims, Popo is individually liable because he was not acting  
 16 within the course and scope of employment when taking the acts listed below.

17      12.    Defendant Gabriella Popo is Popo’s wife and is included in this lawsuit  
 18 pursuant to A.R.S. § 25-215 although Mrs. Popo has relevant information about Popo’s  
 19 past alleged indiscretions that relate to the current allegations.

## 20                   **FACTUAL BACKGROUND**

21      13.    In September 2011, Plaintiff became employed as a server/waitress with  
 22 Stone & Vine. Her immediate supervisor was Popo.

23      14.    During all relevant times from the date of Plaintiff’s original hire until her  
 24 resignation in late 2014, none of the corporate Defendants had any policy or procedure  
 25 in place to complain or report sexual harassment at the workplace. During all relevant  
 26 times, none of the corporate Defendants had a human resources department.

27      15.    Plaintiff worked night shifts at Stone & Vine while she pursued an  
 28 accountancy career at a local CPA firm during the day hours.

1       16. For two full years, Plaintiff performed her job in a stellar fashion, and  
2 consequently she was promoted from server to manager in December 2013. She was  
3 subjected to sexual harassment by Popo, but it was not until December 2013 when Popo  
4 began making *consistent* grotesque sexual advances toward Plaintiff. *Infra.* Popo,  
5 although married with children, was also having a sexual affair with another of the  
6 corporate Defendants' employees.

7       17. Plaintiff performed her new job as manager well. In or around May 2014,  
8 Salt & Lime (as opposed to Stone & Vine) operations were not doing well.  
9 Accordingly, Popo asked Plaintiff to work at Salt & Lime also to train the staff, ensure  
10 food lines were accurate, ensure the shifts went correctly, and generally to oversee  
11 operations.

12       18. After a period of one month, Plaintiff resumed her full duties as Manager  
13 at Stone & Vine. Due in part to Plaintiff's efforts at Salt & Lime, Popo promoted  
14 Plaintiff from a shift manager to a salary manager. In other words, the corporate  
15 Defendants agreed to pay Plaintiff a salary versus payment-per-shift. This occurred in  
16 June 2014.

17       19. In early October 2014, Popo asked Plaintiff to take over duties at Black +  
18 Bleu, which had opened in September 2014. Plaintiff's duties were similar to her duties  
19 at Salt & Lime, e.g. correct management problems and ensure the smooth operation of a  
20 new restaurant.

21       20. While Plaintiff was working at Black + Bleu, Plaintiff was promoted from  
22 salary manager to General Manager.

23       21. During all relevant times, Popo was a "hands-on" owner in that he was  
24 often present at the three restaurants.

25       22. At or around late 2013, Popo began making consistent inappropriate and  
26 grotesque sexual advances during each shift Plaintiff worked. In other words, each shift  
27 Plaintiff worked, Popo would make an inappropriate sexual advance if he was present.

1       23. The following non-exhaustive list demonstrates the depravity of these  
2 sexual advances that consistently occurred from December 2013 until Plaintiff's  
3 resignation in December 2014:

- 4           a. Popo would make inappropriate sexual comments to Plaintiff including,  
5                 "I heard you suck pretty good dick."
- 6           b. Popo would make inappropriate sexual comments about Plaintiff's body  
7                 including, "Your tits are getting smaller."
- 8           c. On several occasions, Popo would sexually assault Plaintiff including  
9                 forcefully grabbing her and injecting his tongue into Plaintiff's mouth.
- 10          d. Popo would repeatedly grab Plaintiff's breasts.
- 11          e. Popo would repeatedly slap and grab Plaintiff's buttocks.
- 12          f. During numerous conversations between Popo and Plaintiff, Popo would  
13                 rub his penis from the outside of his pants and ask Plaintiff to "suck it."
- 14          g. On several occasions, Popo would show Plaintiff his erect penis through  
15                 his pants.
- 16          h. On multiple occasions, Popo would aggressively pressure Plaintiff to  
17                 engage in three-way intercourse with him and another employee Amanda  
18                 Fearon.
- 19          i. On several occasions, Popo would ask Plaintiff to engage in sexual  
20                 relations with another employee, Amanda Fearon, while Popo suggested  
21                 he watch. Plaintiff did not engage in this activity.
- 22          j. Popo would often ask Plaintiff to describe how she masturbates.
- 23          k. Popo would send extremely depraved text messages to Plaintiff including  
24                 the following verbatim text: "I'm your boss when you are on your knees  
25                 I'm grabbing your hair and my cock is throbbing in your mouth."
- 26          l. Popo would repeatedly tell Plaintiff that "I want you to get on your  
27                 knees."

- 1 m. Popo would repeatedly attempt to reach his hands underneath Plaintiff's
- 2 skirt if she was wearing one.
- 3 n. Popo would repeatedly accuse Plaintiff of being scared to have an affair
- 4 with him.
- 5 o. On repeated occasions, Popo would grab Plaintiff's hips from behind her
- 6 and thrust his penis against her repeatedly.
- 7 p. On at least two occasions, Popo entered Plaintiff's office, revealed his
- 8 bare penis and demand sexual relations.

9 24. Even though married with children, during this timeframe Popo was  
10 having a sexual affair with an employee named Amanda Fearon. Popo and Amanda  
11 would often insist that Plaintiff have a " threesome" with them, which means that Popo  
12 and Amanda approached Plaintiff about having sex all with each other at the same time.

13 25. In another even more disturbing scenario, Popo text messaged Plaintiff  
14 while she was working. The text message read that Popo was at home and his daughters  
15 were playing around at the house with some friends and he revealed that he was  
16 "horny" [sic], to wit:

17 Popo:       Nope right now I'm just laying down  
18 Plaintiff:     Hard to imagine  
19 Popo:        Girls have friends over and they are running around  
20 Plaintiff:     Cute!  
21 Popo:        But I am horny [sic]  
22 Plaintiff:     Oh dang. Just got not cute.

23 26. These occurrences of vile and disgusting behavior were continuous at  
24 each of Plaintiff's shifts such that she could no longer tolerate the degradation coming  
25 from Popo. She continuously asked him to stop, but he refused. Popo was aggressive  
26 and Plaintiff did not have a human resources department or participate in any other  
27 corrective opportunity to make the advances stop. Additionally, Popo was the owner.  
28

1       27. There was no preventative or corrective opportunities provided by the  
2 corporate Defendants, and therefore Plaintiff was forced to resign her position as  
3 General Manager. In fact, the corporate defendants did not have an HR department or  
4 other department dedicated to harassment policies.

5       28. The corporate Defendants did not have a policy or procedure to report  
6 sexual harassment. Even more disturbing, the principal of the LLC owner was the one  
7 perpetrating these vile and disgusting advances.

8       29. Although Plaintiff's job performance was impeccable, and Defendants  
9 rewarded her performance with at least four promotions, the last of which was two  
10 months prior to her resignation, Popo also repeatedly and aggressively treated her in a  
11 derogatory manner in addition to the sexual advances. Examples of his hostility  
12 included repeated yelling, using swear words toward Plaintiff. This hostility was both in  
13 Plaintiff's office and via text messages. For example, in one text message exchange the  
14 following occurred:

15           Popo: I am sick and tired of hearing fucking excuses!!...Really inaccurate well  
16           everyone is reading it!...So its real on fucking yelp so its real

17           Plaintiff:   Ok

18       30. As a result of Popo's continuous and degrading sexual advances and  
19 hostile attitude toward Plaintiff, she has lost income, benefits, and she has suffered from  
20 severe emotional distress that has exhibited physical symptoms such as sweating,  
21 headaches, acne breakouts, anxiety and loss of sleep.

22       31. Popo's and the corporate Defendants' actions complained of herein were  
23 evil, degrading and done with an evil heart. Some of Popo's actions toward Plaintiff  
24 were so grotesque and dark that he and the corporate Defendants should be punished to  
25 the point that such behavior never repeats itself.

26       32. Popo's and the corporate Defendants' actions were done with a reckless  
27 disregard or intentional disregard for Plaintiff's federally protected rights. Popo has  
28

1 settled two past sexual harassment cases – once while he owned Sapporo Restaurant in  
2 Scottsdale and once while owner of Stone & Vine.

3       33. Despite the corporate Defendants knowledge of these two past sexual  
4 harassment settlements, the corporate Defendants did not install a policy or procedure  
5 of reporting sexual harassment.

6       34. Despite two past sexual harassment settlements, the corporate Defendants  
7 did not take any action to ensure Popo would not commit sexual crimes against future  
8 employees such as Plaintiff.

9       35. It is common knowledge amongst corporate Defendant employees and  
10 past employees that Popo is a sexual fiend and that he regularly commits adultery and  
11 commits sexual harassment with corporate defendant employees. Despite this  
12 knowledge amongst the principals of the corporate Defendants, no human resources or  
13 policy or procedure for reporting sexual harassment has been installed at the  
14 restaurants.

15       36. The knowledge of Popo's sexual exploits is so widely known that  
16 Plaintiff would receive random e-mail messages during the pre-litigation of this matter  
17 such as the following: "Anyone and everyone who knows Joe Popo knows that this has  
18 been going on for years. He was sued for sexual harassment while he was owner of  
19 Sapporo. It was settled. I have seen it more than 50 times since I have known him.  
20 Some girls like it because he is good looking and charming, others are afraid of losing  
21 their jobs. He's a drunk and a pig, this is no secret. I guarantee you that if you  
22 subpoenaed his good looking female employees dating back to Sapporo, he could  
23 probably go to prison. Its that bad. Unfortunately, most girls won't do it out of fear and  
24 some sort of fucked up loyalty to his family. Good luck with this, I would like to see  
25 him get what he deserves."

26       37. The knowledge of Popo's sexual exploits is so widely known that  
27 Plaintiff would receive communications during the pre-litigation of this matter that it is  
28 common knowledge that "Popo fucks all the cocktail waitresses."

1       38. Popo's and the corporate Defendants' disregard for the law is a pattern  
2 and not simply limited to Title VII and common law. On strong information and belief,  
3 the corporate Defendants employ 35-40 undocumented workers in violation of federal  
4 law. On strong information and belief, Popo has instructed managers and consultants  
5 for the corporate Defendant restaurants to not E-verify kitchen staff.

6       39. During the pre-litigation to this matter and despite the parties being  
7 represented by counsel, Popo would attempt to contact Plaintiff through telephone and  
8 i-pad facetime.

9       40. During the pre-litigation to this matter, in an effort to warn other women  
10 of the alleged predatory nature of Popo, Plaintiff distributed flyers advising of the  
11 allegations in this matter. Only a few hours after the flyers were distributed, Popo and  
12 the corporate Defendants directly or indirectly published the following defamatory  
13 statements about Plaintiff on a public forum called [thedirty.com](http://thedirty.com):

14       41. Statement No. 1: A person who calls himself "Amypattersonisawhore"  
15 defamed Plaintiff as follows: "This girl Amy Patterson is such a whore. Everyone  
16 knows she fucks anything and everything, she sends nude photos to everyone. I'll have  
17 to dig some out, Amy. I still have them. I heard you filed this BS... Nice try looking for  
18 a payday but everyone in Scottsdale knows you're a lying whore. Stop spreading your  
19 STDs while you are at it. There's enough herpes and genital warts. Thank God the one  
20 you gave me was curable. GTFO here. Everyone is laughing at your fake shit."

21       42. Statement No. 2: A person who calls himself "Anonymous" defamed  
22 Plaintiff as follows: "Just another slut trying to lie and get some money out of it...not  
23 surprised if she knew exactly what she was doing the whole time."

24       43. Statement No. 3: A person who calls himself "Amypattersonisawhore"  
25 defamed Plaintiff as follows: "Of course she knew. She was looking for a payday the  
26 whole time. The only problem is Amy Patterson is huge whore with the std's to prove  
27 it. Typical Scottsdale whore looking for free money and tired of 'working.' Well, if

Amy Patterson does score some cash, she should spend every dollar on Valtrex and plastic surgery." Valtrex is a drug used to treat certain sexually transmitted diseases.

3           44. Plaintiff does not have an STD. Plaintiff is not a whore. Plaintiff does not  
4 send nude photos to everyone. Plaintiff does not have sex with anything and everything.

5       45. The above statements are false and were disseminated in a public forum  
6 for millions of persons to view.

## COUNT ONE

#### **(Violation of Title VII of Civil Rights Act – Hostile Work Environment)**

(42 U.S.C. § 2000e et seq.)

## **(Corporate Defendants)**

10 ||| 46. Plaintiff incorporates by reference all allegations heretofore set forth.

11       47. Popo is an immediate supervisor for Plaintiff for all three corporate  
12 Defendants. Popo is able to make tangible employment actions for all three corporate  
13 Defendants such as hiring, firing, reassignment, and changing benefits. Accordingly,  
14 pursuant to Title VII the corporate Defendants are vicariously liable for Popo's acts.

15       48. Plaintiff was subjected to requests for sexual conduct, verbal conduct of a  
16 sexual nature, and physical conduct of a sexual nature from Popo as discussed in more  
17 detail above.

18 || 49. Plaintiff did not welcome this conduct.

19       50. The conduct was severe as described above and was so pervasive that it  
20 occurred at every one of Plaintiff's shifts.

21       51. Plaintiff perceived her working environment to be both abusive and  
22 hostile to the point that she found the work environment so hostile and abusive that she  
23 resigned her position.

24       52. Plaintiff had nowhere to turn to report the sexual harassment and assault  
25 coming from her supervisor and owner, Joe Popo, for reasons stated above.

26       53. A reasonable woman in Plaintiff's position would consider the  
27 environment Plaintiff experienced to be abusive, hostile and degrading.

1       54. As a direct and proximate result, Plaintiff has suffered lost wages, lost  
 2 future wages and other damages as discussed herein.

3       55. Defendant acted with malice and an evil heart as described above, and  
 4 Defendant knew and showed a reckless disregard that its actions violated equal  
 5 protection laws. Therefore, Plaintiff is entitled to punitive damages. Defendants should  
 6 be punished for Popo's degrading, offensive and malicious attitude and actions toward a  
 7 person of the opposite sex.

8

**COUNT TWO**  
**(Intentional Infliction of Emotional Distress)**  
**(Popo Defendants)**

9       56. Plaintiff incorporates by reference all allegations heretofore set forth.

10      57. Under common law, Popo's actions described above were not within the  
 11 course and scope of employment since there was no tangible benefit to the corporate  
 12 Defendants for each disgusting act he took toward Plaintiff.

13      58. Popo's conduct was extreme and outrageous, beyond all possible bounds  
 14 of decency, and utterly intolerable in a civilized community in any setting, e.g. Popo  
 15 pulling down his pants and displaying and touching his penis in front of Plaintiff.

16      59. Popo's conduct was intended to cause and/or was done with reckless  
 17 disregard of the near certainty that Plaintiff would suffer severe emotional distress.

18      60. Plaintiff suffered severe emotional distress, which was exhibited by  
 19 outward physical symptoms.

20      61. Popo's conduct complained of herein was done with malice, an evil heart,  
 21 and was so outrageous and so likely to cause tremendous harm to the Plaintiff thereby  
 22 entitling the Plaintiff to punitive damages.

23

**COUNT THREE**  
**(Battery)**  
**(Popo Defendants)**

24      62. Plaintiff incorporates by reference all allegations heretofore set forth.

63. Under common law, Popo's actions described above were not within the course and scope of employment since there was no tangible benefit to the corporate Defendants for each disgusting act he took toward Plaintiff.

64. Popo intended to cause harm and offensive contact with Plaintiff, he did cause harm and offensive contact with Plaintiff, and as a result Plaintiff suffered damages.

65. Popo's conduct complained of herein was done with malice, an evil heart, and was so outrageous and so likely to cause tremendous harm to the Plaintiff thereby entitling her to punitive damages.

**COUNT FOUR**  
**(Assault)**  
**(Popo Defendants)**

66. Plaintiff incorporates by reference all allegations heretofore set forth.

67. Under common law, Popo's actions described above were not within the course and scope of employment since there was no tangible benefit to the corporate Defendants for each disgusting act he took toward Plaintiff.

68. Popo intended to cause an apprehension in Plaintiff of immediately harmful or offensive contact, Defendant's conduct did cause Plaintiff an apprehension of immediately harmful or offensive contact, and as a result Plaintiff suffered damages.

69. Popo's conduct complained of herein was done with malice, an evil heart, and was so outrageous and so likely to cause tremendous harm to Plaintiff thereby entitling her to punitive damages.

**COUNT FIVE**  
**(Corporate and Popo Defendants)**  
**(Defamation)**

70. Plaintiff incorporates by reference all allegations heretofore set forth.

71. The corporate Defendants and Popo, directly or indirectly, upon information and belief, published or caused to be published the defamatory statements referenced herein.

72. The statements made were false and were published in a public forum for millions of persons to view.

73. The corporate Defendants' and Popo's defamatory statements were done with malice, and evil heart, and were so outrageous and so likely to cause tremendous harm to Plaintiff thereby entitling her to punitive damages. Defendants first subjected Plaintiff to sexual harassment and sexual assault only to follow by calling her a whore and accusing her of having sexually transmitted diseases after she sought to protect her rights.

## **COUNT SIX**

**(Corporate and Popo Defendants)**

**(Intentional Infliction of Emotional Distress)**

74. Plaintiff incorporates by reference all allegations heretofore set forth.

75. In directly or indirectly publishing the defamatory statements mentioned herein, the corporate Defendants' and Popo's conduct were extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community in any setting, e.g. characterizing Plaintiff as a whore who carries and transfers sexually transmitted diseases after she sought to protect her rights.

76. The corporate Defendants' and Popo's conduct were intended to cause and/or was done with reckless disregard of the near certainty that Plaintiff would suffer severe emotional distress.

77. Plaintiff suffered severe emotional distress, which was exhibited by outward physical symptoms.

78. The corporate Defendants' and Popo's conduct complained of herein was done with malice, an evil heart, and was so outrageous and so likely to cause tremendous harm to the Plaintiff thereby entitling the Plaintiff to punitive damages.

## **PRAYER FOR RELIEF**

79. WHEREFORE, Plaintiff prays for relief as follows:

- a. Declaring the acts and practices complained of herein are in violation of Title VII;
  - b. General damages and compensatory damages to be proven at trial, including:
    - i. Back pay in an amount to be proven at trial;
    - ii. Front pay in an amount to be proven at trial;
    - iii. The value of lost benefits.
  - c. Punitive damages pursuant to the Title VII;
  - d. Punitive damages pursuant to the common law counts in the amount of not less than \$5,000,000.00;
  - e. Prejudgment and post-judgment interest;
  - f. Attorney's fees and costs of suit;
  - g. For such other relief to which Plaintiff may be entitled and that this Court deems just and proper.

## **DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial.

RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of March, 2015.

## THE STROJNIK FIRM LLC

By /s/ Peter K. Strojnik

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